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Srivatsan D.

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EXAMINER

SINKANTARAKORN, PAWARIS

ART UNIT

PAPER NUMBER

2616

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):



## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.
2. Claims 1-21 are currently pending in the application.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Previously added claims 20 and 21 claim "one or more data structures," however, "data structure" is not described in the specification.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20 and 21 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.

Regarding claim 20 lines 2-3, "one or more data structures comprising information ... represented as a string" is non-functional descriptive material, therefore, does not have a tangible result.

The same is true for claim 21.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-10 and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Gerrevink (US 2003/0012141)

**Regarding claims 1, 18, and 19**, Gerrevink disclose a method of generating data traffic in a traffic generator (see Figure 1 reference numeral 100 Test System, Test System corresponds to traffic generator), the method comprising the steps of:

generating a plurality of traffic flows (see paragraphs 31 and 44); and

associating each of the traffic flows with at least one of a plurality of output interfaces of the traffic generator such that at least two of the plurality of output interfaces each has one or more traffic flows associated therewith (see paragraph 31, forwarding multiple streams to multiple output ports of the System Under Test (SUT), wherein the SUT is a component in the Test System 100, and the Test System is interpreted as the traffic generator) and at least one of the plurality of output interfaces has two or more of the traffic flows associated therewith (see paragraphs 31, 52 and 77, a set of addresses is programmed to be routed to that output port, meaning that a plurality of traffic streams are associated with each output port);

the traffic flows comprising respective test traffic flows synthesized within the traffic generator (see paragraphs 31 and 35);

**regarding claim 2**, at least one of the traffic flows is generated based on user selection of at least one of a traffic model (see paragraph 36);

**regarding claim 3**, the output interfaces are associated with an output interface bus of the traffic generator (see paragraph 52);

**regarding claim 4**, the output interface bus is implemented as a software module representative of one or more physical connections (see paragraphs 39 and 76);

**regarding claim 5**, each of the plurality of traffic flows maps to one of the output interfaces of the traffic generator and to an input interface of the traffic generator (see paragraphs 31 and 52);

**regarding claim 6**, the traffic generator is operable in at least two phases, including a first phase in which a timestamp table is constructed based at least in part on user-selected configuration information (see paragraph 36, time of departure of each data packet), and a second phase in which packets are generated using the timestamp table constructed in the first phase (see paragraph 37);

**regarding claim 7**, the traffic generator comprises a pattern generator having a plurality of user-selectable pattern generation processes associated therewith, at least a given one of the processes generating a configuration list (see paragraph 36);

**regarding claim 8**, the traffic generator comprises a sequencer having a plurality of user-selectable sequencing processes associated therewith, a given one of the sequencing processes specifying an order of selection of items from a configuration list (see paragraph 36);

**regarding claim 9**, the plurality of sequencing processes comprises a group sequencer which provides a correlative mapping between two or more configuration lists and their associated parameters (see paragraphs 36 and 81);

**regarding claim 10**, information characterizing one or more of the traffic flows is stored as a traffic file in a memory associated with the traffic generator (see paragraph 36);

**regarding claim 14**, the traffic generator comprises a hardware traffic generator (see paragraph 36);

**regarding claim 15**, the traffic generator comprises a software traffic generator (see paragraphs 34, 36, 37, and 44);

**regarding claim 16**, the traffic generator comprises an element of a software-based development tool for simulating the operation of an electronic system (see paragraphs 34 and 36);

**regarding claim 17**, the traffic generator is implemented primarily in software and is configured to generate data traffic files that are utilizable in another traffic generator implemented primarily in hardware (see paragraphs 34 and 36).

***Claim Rejections - 35 USC § 103***

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrevink.

Regarding claim 11, Gerrevink discloses all the subject matter of the claimed invention except a global header followed by one or more frames each having an associated frame header. However, it is well known in the art that the global header is followed by frames, wherein each frame has a frame header.

Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement a global header followed by one or more frames each having an associated frame header.

The motivation for implementing a global header followed by one or more frames each having an associated frame header is that it allows consistency in the system because every frame complies with the global header.

#### ***Allowable Subject Matter***

11. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

12. Applicant's arguments filed 4/9/2008, regarding claims 20-21, have been fully considered but they are not persuasive.

On page 1 of the Remarks, the Applicants submit that claims 20 and 21 are statutory. The Examiner respectfully disagrees. According to MPEP §2106.01, "functional descriptive material" consists of data structures and computer programs



which impart functionality when employed as a computer component and “nonfunctional descriptive material” includes but is not limited to music, literary works, and a compilation or mere arrangement of data. Also in MPEP §2106.01, when nonfunctional descriptive material is recorded on some computer readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Claims 20 and 21 only claim one or more data structures stored on a computer-readable storage medium comprising information, represented as a string which includes a global header followed by one or more frame header (Also see Figure 3B and 3C of the Drawings). The Examiner believes that one or more data structures is nonfunctional descriptive material because the one or more data structures are mere arrangement of data.

Thus, in view of the above reasoning, the Examiner believes the rejection should be sustained.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAO SINKANTARAKORN whose telephone number is (571)270-1424. The examiner can normally be reached on Monday-Thursday 9:00am-3:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2616

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PS